

HOUSE BILL 1962

By Camper

AN ACT to amend Tennessee Code Annotated, Title 55
and Title 67, relative to tax credits for shippers.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 67, Chapter 4, Part 21, is amended by
adding the following as a new section:

67-4-2122.

(a) As used in this section:

(1) "Accessorial services":

(A) Means any service that is incidental to transportation services;

(B) Includes storage, packing, unpacking, hoisting or lowering,
waiting time, overtime loading and unloading, and reweighing;

(2) "Best interests of the state" means a determination by the
commissioner, with approval by the commissioner of economic and community
development, that the qualified transportation expenditures are a result of the
credit provided in this section;

(3) "Freight motor vehicle" means a motor vehicle that is designed and
used primarily to transport goods for hire or for commercial purposes;

(4) "Goods" means personal property that is treated as movable for the
purposes of a contract for transportation services;

(5) "Line haul services" means the movement of goods over the public
highways from the point of origination to the final destination;

(6) "Motor carrier" means a person who operates or causes to be operated a freight motor vehicle on a public highway for the purpose of performing transportation services;

(7) "Qualified transportation expenditures" means the total charges incurred by a shipper for line haul services, transportation services, and accessorial services performed by a motor carrier for shipments picked up at points of origination within this state or delivered to final destinations within this state;

(8) "Person" means every individual, firm, association, joint-stock company, syndicate, partnership, corporation, or other business entity;

(9) "Shipper" means any person that enters into a contract for transportation services with a motor carrier;

(10) "Transportation services" means the pickup or delivery, or both, of goods at the point of origination or final destination; and

(11) "Turn-around policy" means the uniform and internal policy established by a shipper that meets the requirements of subsection (c).

(b) There shall be allowed to any shipper that establishes a turn-around policy pursuant to subsection (c) a credit against the sum total of the franchise taxes imposed by this part and the excise taxes imposed by part 20, equal to two percent (2%) of qualified transportation expenditures.

(c) To qualify for the credit provided by this section, the shipper shall establish a uniform and internal turn-around policy for assuring that pickups and deliveries are performed during the period of time agreed upon by a motor carrier and a shipper and for preventing delays in the timely transportation of goods over the public highways. The policy shall include the following minimum requirements:

(1) That pickups and deliveries shall be accomplished on the date scheduled for pickup or delivery, that pickups must be completed within the

period of time agreed to by the shipper and the motor carrier, which period shall not exceed two (2) hours, and that deliveries must be completed within the period of time agreed to by the shipper and the motor carrier, which period shall not exceed two (2) hours; and

(2) That for each shipment of goods for which transportation services of the motor carrier is requested by a shipper, the shipper shall provide the motor carrier with contact information for:

(A) Any person who may authorize pickup or delivery of any goods to be transported if the shipper designates such a person;

(B) The shipper and any person receiving the pickup or delivery, if different from the shipper; and

(C) Any person to whom notification of delays or that goods are available for pickup or delivery, shall be given.

(d)

(1) To request a credit, the shipper shall file an application with the commissioner on a form prescribed by the commissioner, and include the following with the application:

(A) A copy of the turn-around policy established pursuant to subsection (c);

(B) An audited cost report issued by a public accountant licensed by this state confirming the amount of qualified transportation expenditures incurred by the shipper; and

(C) A written statement signed by the shipper on a form prescribed by the commissioner certifying that each pickup and delivery that resulted in the qualified transportation expenditures for which the

credit is requested was accomplished within the time period required by the shipper's turn-around policy.

(2) The commissioner may conduct audits or require the filing of additional information necessary to substantiate or adjust the amount of the credit allowed by this section, and to determine that the shipper has complied with all statutory requirements so as to be entitled to the credit.

(3) The commissioner shall review the documentation submitted by the shipper and notify the shipper of the approved credit.

(e) The credit in this section shall only be available upon a determination by the commissioner, with approval by the commissioner of economic and community development, that the qualified transportation expenditures and the credit are in the best interests of the state.

(f) The credit provided by this section shall apply only in the tax year in which the shipper establishes a turn-around policy meeting the criteria in subsection (c), incurs qualified transportation expenditures, and otherwise meets the requirements of this section.

(g) The shipper shall maintain a copy of the following to establish entitlement to the credit:

(1) Contract for transportation services, orders for service, or other written documentation prepared by the motor carrier and approved by the shipper that requests and authorizes line haul services, transportation services, and accessorial services from a motor carrier and lists the costs of the services to be rendered;

(2) Invoices or other written statements given to the shipper that describe the costs of the services rendered, including rates, number of miles driven within

this state, points of origination and final destinations, and actual pickup and delivery dates and times; and

(3) All other pertinent records made with respect to the transportation of a shipment to or from points within this state.

(h) The documentation required to be maintained pursuant to subsection (g) shall be available for examination upon request of the commissioner. The shipper shall supply any information as deemed necessary by the commissioner to verify the amount of the credit.

(i) The total credit claimed for any taxable year, including the amount of any carryforward credit claimed, shall not exceed fifty percent (50%) of the combined franchise and excise tax liability shown by the return before any credit is taken. Any unused credit may be carried forward in any tax period until the credit is taken; provided, however, that the credit may not be carried forward for more than fifteen (15) years.

(j) The commissioner is authorized to promulgate rules to effectuate the purposes of this section. All such rules shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

SECTION 2. For purposes of promulgating rules and creating forms and applications, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect January 1, 2017, the public welfare requiring it.